UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,160	08/29/2006	Mikael Kageback	40373	4654

116 7590 03/31/2010
PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER	
BERTHEAUD, PETER JOHN	
ART UNIT	PAPER NUMBER
3746	
MAIL DATE	DELIVERY MODE
03/31/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/578,160	KAGEBACK ET AL.	
	Examiner	Art Unit	
	PETER J. BERTHEAUD	3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 January 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 May 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is in response to the arguments filed 1/7/2010. It should be noted that the claims have not been amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlberg US 2002/0166195 in view of Whitney 6,308,375.

Dahlberg discloses a leaf blower assembly comprising at least an engine 14 and a fan, said fan comprises a fan housing enclosing a fan wheel 10 and a fan inlet 13, said engine 14 and fan are surrounded by a casing 20, said casing 20 is provided with an air inlet 26 to let air in to the fan inlet 13 placed inside the casing 20 so that the air stream from the air inlet in the casing 20 to the fan inlet 13 cools the engine 14 and components inside the casing 20 before it enters the fan inlet 13 and leaves the blower via a blower tube (see tube extending from 12 in Figs. 1 and 2); wherein there is an exit opening 23 in the casing so that heated air is allowed to exit the casing (see para. 27). However, Dahlberg does not disclose the specific limitations taught by Whitney.

Whitney teaches a blower assembly comprising a fan 24 comprising a fan housing, (23, 20) characterized in that the fan housing is provided with an opening (see

21 and Fig. 4) placed somewhere in the fan housing so that air is allowed to leave the fan 24 in case of blocked air stream in the fan housing or downstream of the housing; wherein the opening is placed in a position in the fan housing where the pressure inside the fan housing is low so that the mount of leaking air through the opening is minimized during normal use; wherein the opening (21) in the fan housing (23, 20) is placed close to the periphery of the fan wheel (within 24); wherein the opening is surrounded by a guiding cover (see tube 25) that leads the air stream from the opening towards the exit.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified the leaf blower assembly of Dahlberg by implementing an opening in the fan housing, as taught by Whitney, in order to vent the fan housing in case of a blockage so as to prevent damage to the fan and/or engine.

In addition, Dahlberg in view of Whitney teaches the claimed invention except for the opening being placed on the side of the fan housing that is facing towards the back of the operator. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to place the opening on the side of the fan housing that is facing towards the back of the operator, because this modification amounts to rearrangement of parts. It has been held that mere rearrangement of the essential working parts of a device involves only routine skill in the art. In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (see MPEP 2144.04, VI. C. - Rearrangement of Parts).

Response to Arguments

4. Applicant's arguments filed 1/7/2010 have been fully considered but they are not persuasive.

5. In response to Applicant's arguments with respect to the combination of Dalhberg in view of Whitney: Applicant argues that one of ordinary skill in the art would not have found it logical to combine the teachings of Dahlberg and Whitney. Examiner respectfully disagrees. Applicant states that the vents in Whitney are not positioned in the fan housing but in a blower conduit. This is correct, but it is the Examiner's contention that the teaching of the vents in a blower assembly, as well as the reasons for implementing these vents warrants the combination. No further reasoning as to why or how the opening 31 is placed in the fan housing of Applicant's invention is claimed.

Applicant goes on to specifically argue that the purpose of Whitney's vents is different from the openings in the present invention stating that, "*the main purpose of the vents in Whitney is to maximize the effectiveness of blower-driven air streams carrying entrained organic debris into a collector enclosure by eliminating the need for venting the air flow from inside the collector container, and thereby eliminating the problems of debris escape, vent mesh clogging, and the loss of vacuum effect.*" Applicant then states that, "*Another purpose is to reduce the pressure developed inside the collector container which results when the air escape path is completely blocked. (Whitney, column 2, lines 21-36).*" The latter purpose sounds very similar to objective of the present invention, which is to allow air to leave the fan in case of a blocked air stream (see claim 1). If the vents in Whitney did not exist and the air escape path

became completely blocked, a pressure would develop which could most certainly lead to the blower engine (24) overheating. Just as the opening 31 in the present invention aids in preventing overheating, the vents in Whitney are indeed capable of helping to prevent the blower engine (24) from overheating as well. No further reasoning as to why or how the opening in Applicant's invention prevents overheating is claimed.

Therefore, in light of the above arguments, Examiner's rejection of claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over Dahlberg in view of Whitney in maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER J. BERTHEAUD whose telephone number is (571)272-3476. The examiner can normally be reached on M-F 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art Unit 3746

PJB
/Peter J Bertheaud/
Examiner, Art Unit 3746